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Opinion

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December 17, 1957

OCT 01 1998

CONCORD, N.H.

Winfield J. Phillips, Bank Commissioner
State House
Concord, New Hampshire

Dear Mr. Phillips:

Your letter of April 23, 1957 requests the opinion of this office as to whether a savings bank is violating any insurance law in collecting mortgage insurance premiums from the debtor and forwarding same to the insurer.

The factual pattern under which the bank operates is as follows; the bank does not try to sell the borrower mortgage insurance unless the borrower requests same. The bank then takes the borrower's application for mortgage insurance and forwards it to the insurer. The bank receives no commission, rebate or service charge for this service. Thereafter when the application is accepted the bank collects from the borrower monthly premiums and forwards same to the insurance company.

RSA 402:26 states what constitutes being an agent and dispenser of insurance. The pertinent part of that statute is: quoted as follows:

"If a person shall act or aid in any manner in the negotiation of insurance other than life insurance . . . without a license from the commissioner . . . he shall be fined . . . "

This statute specifically eliminates from its provisions the negotiation of life insurance. This being so it is the opinion of this office, based on the aforementioned facts, that the bank does not require an insurance license and thus is not in violation of the statute.

Sincerely yours,

William J. Deachman
Assistant Attorney General

WJD/m

CC- Commissioner Donald Knowlton